

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WSC WARMINSTER PLAZA
ASSOCIATES, LP

v.

OFFICE DEPOT, INC.

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CIVIL ACTION

NO. 08-cv-03208-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

March 19, 2009

At the recent chambers conference in this case, a principal subject of dispute was whether the depositions of witnesses designated by defendant to speak for the corporation should take place in Philadelphia, where this action is pending, or in Florida, where the witnesses reside and are employed. At an earlier stage, when only one such witness was mentioned, I had ruled informally that the deposition should take place here in Philadelphia. I reasoned that, by leasing space in a shopping center in this District, and purporting to terminate the lease at an early stage, defendant should have anticipated that the litigation would take place here. On the other hand, there are cases which hold that the usual rule for designated witnesses is that their pretrial depositions take place at the headquarters of the corporation which employs them. I need not reach a definitive ruling on that subject, because it now appears that (1) there are two such witnesses, and (2) defendant has offered to pay the travel expenses involved in completing their

depositions. Regardless of other considerations, it undoubtedly makes sense for one plaintiff's attorney to travel to Florida, rather than for two witnesses to travel to Philadelphia. Defendant's choice as to the location of the depositions will therefore be honored.

In addition to the foregoing issue, it is desirable to enter a scheduling order. An Order follows.

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ORDER

AND NOW, this 19th day of March 2009, IT IS ORDERED:

1. That the pretrial depositions of witnesses designated by the defendant shall occur either in Florida or in Philadelphia, as determined by the defendant.

2. The depositions of these designated witnesses shall be completed by May 15, 2009.

3. All pretrial depositions shall be completed by July 15, 2009.

4. The parties shall exchange documents and witness lists within two weeks from the date of this Order.

5. Dispositive motions, if any, shall be filed on or before July 25, 2009.

6. Trial shall commence on or after September 15, 2009.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.